

IN THE UNITED STATES BANKRUPTCY COURT
DISTRICT OF PUERTO RICO

IN RE:

CLENDOLAB INC.

Debtor

WILFREDO SEGARRA MIRANDA, as Chapter 7
Trustee for the Estate of Clendo Lab Inc.

Vs.

Clendo Occupational Health Services, Inc.

Defendant

CASE NO. 10-03931-BKT

CHAPTER 7

Adv. No. 11- 114

AVOIDANCE OF FRAUDULENT CONVEYANCE
UNDER §§ 544 ,548 AND 549 OF THE
BANKRUPTCY CODE and VIOLATION OF
STAY §§ 362

MOTION FOR PROVISIONAL REMEDY

TO THE HONORABLE COURT:

Plaintiff, through his special counsel, for his complaint herein STATES AND
PRAYS AS FOLLOWS:

1. On this date plaintiff filed complaint against defendants for Avoidance of Fraudulent Conveyance under § 544, 548, 549 and Violation of Stay § 362 of the Bankruptcy Code.
2. Action is for avoidance of the transfer of all assets and license "Certificated of Necessity and Convenience" which is described in the Commonwealth Health Department as Certificate No. 11-066 before Certificate No. 07-095. (**See "Exhibit A"**).
3. On April 13, 2011 The Department of Health of the Commonwealth of Puerto Rico transferred the referenced license to Clendo Occupational Health Services, Inc.
4. The above mentioned transfer was made after filing of Bankruptcy Procedure and in violation of automatic stay.
5. Since transfer was made to a new corporation, there is risk that additional transfers could occur, also there could be an illegal use of the license since

U.S. BANKRUPTCY COURT
FOR THE DISTRICT OF
PUERTO RICO

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owner is not Clendo Occupational Services, but Clendo Labs Inc. There is a complaint regarding the fraudulent transfer of said license and assets and it is necessary to secure satisfaction of the judgment that any transaction or use of such license became suspended or held until decision of actual ownership is made by this Honorable Court.

6. Under Bankruptcy Rule 7064 a party may request "At the commencement of and during the course of an action, all remedies providing for seizure of person or property for the purpose of securing satisfaction of the judgment ultimately to be entered in the action are available under the circumstances and in the manner provided by the law of the state in which the district court is held..."
7. Rule 56.1 of Laws of Puerto Rico Annotated, Title Thirty-Two (A) Appendix, Puerto Rico Court Rules, established that in every action, before or after entering judgment, and on motion of claimant, the court may issue any provisional order it may deem necessary to secure satisfaction of the judgment. The court may order the attachment, garnishment, the prohibition to alienate, claim and delivery of Personal property, receivership, an order to do or to desist from doing any specific act, or it may order any other measure it deems necessary, according to the circumstances of the case. In every case in which a provisional remedy is sought, the court shall consider the interests of all the parties and shall adjudicate as substantial justice may require.
8. Rule 56.3 of Laws of Puerto Rico Annotated, Title Thirty-Two (A) Appendix, Puerto Rico Court Rules, it is established that: Shall be granted a provisional remedy without bond in any of the following cases providing remedy: (1) If documents public or private, as defined by law, signed before a person authorized to administer an oath, that the obligation is legally enforceable.
9. The Trustee respectfully requests this Honorable Court order the Department of Health of the Commonwealth of Puerto Rico that any transaction or use of such license become suspended or held in abeyance until a final decision on plaintiff's claims and entry of the judgment ultimately to be entered in the action.

WHEREFORE, it is respectfully prayed this Honorable Court grant this motion and order to co-defendants Clendo Occupational to consigned to consign the referenced license, Certificate number 11-066 and order the Department of Health of the Commonwealth of Puerto Rico that any transaction or use of such license became suspended or held until decision of actual ownership is made by this Honorable Court thus securing satisfaction of the judgment ultimately to be entered in the action and any other relief this Court deems just and appropriate.

In San Juan, Puerto Rico, this 31st day of May, 2011

Certificate of Service: I hereby certify a copy of the following was filed electronically through CM/ECF and therefore electronically notified to all attorneys of record and the office of the United States Trustee. In addition, a copy of this motion was sent by mail with copy of the complaint and summons to Defendant Clendo Occupational Health Services, Inc., through its President, Idalia Becerra Lamberty.

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